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ABSTRACT

The First Amendment supports one of the boldest and most successful experiments in religious liberty in human history. The challenge for 21st Century America is to sustain this extraordinary arrangement and expand its principles more fairly and justly to each and every citizen. Public schools are the principal institution charged with enabling Americans to live with one another's deepest differences. Over the past decade, religious and education groups from across the spectrum have adopted a series of consensus guidelines on matters of religious liberty such as religious holidays, student clubs, and cooperative arrangements between religious communities and public schools. The central philosophy revolves around the "civil school," where religion is not inculcated or inhibited but treated with fairness and respect. Such schools demonstrate fairness in that the curriculum includes study about religion, where appropriate, taught neutrally and objectively and as part of a complete education, for example, as a component and contributor to history, social studies, and literature, among other subjects. Proposed reform efforts include educating school leaders, adopting local policies, teaching the First Amendment, preparing teachers, offering religious studies, improving staff development, certifying religious studies, reforming the curriculum, and developing new classroom resources. (RT)

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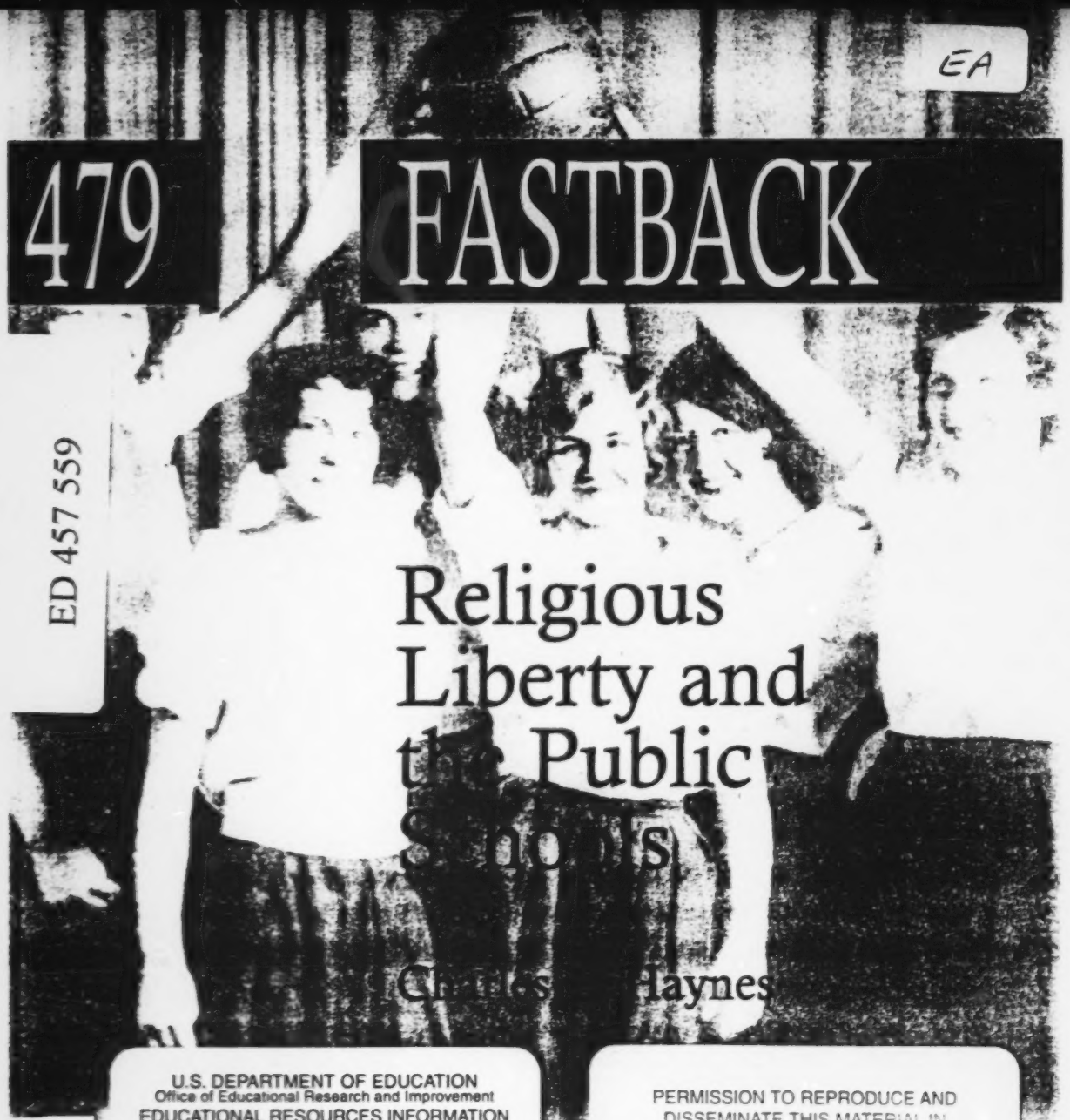

Religious Liberty and the Public Schools

Charles C. Haynes

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Series Editor, Donovan R. Walling

Religious Liberty and the Public Schools

by
Charles C. Haynes

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A New Consensus for the 21st Century

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."
>
> — Religious Liberty Clauses,
> First Amendment, *U.S. Constitution*

More than 200 years after their enactment, the first 16 words of the Bill of Rights undergird the boldest and most successful experiment in religious freedom in human history. Despite periodic outbreaks of nativism, anti-Semitism, and religious conflict, Americans can be justly proud that we begin the new century as one nation of many peoples and faiths.

The challenge for 21st century America is not only to sustain this extraordinary arrangement, but to expand the principles of religious liberty more fairly and justly to each and every citizen. This is no small task. Today the United States is the most religiously diverse society on Earth and, among developed countries, the most religious. But exploding religious pluralism combined with bitter culture wars are making our public square an increasingly crowded and often hostile arena.

Nowhere is it more important — or more difficult — to address our growing ideological and religious diversity than in the public schools. Not only are our schools a key battleground in the culture wars, they are the principal institution charged with enabling Americans to live with our deepest differences. If we fail in our schools to teach and model the rights and responsibilities that flow from the First Amendment, then surely we endanger the future of our daring experiment in religious liberty.

Six years ago at a meeting between public school leaders and some of their severest critics among conservative Christians, I began the dialogue by reciting the litany of conflicts, ranging from religious clubs and graduation prayer to school reform and sex education. I noted that these clashes of worldviews now involve people of many faiths, as well as those with no religious preference. And I ended by remarking that if we don't find new ways to deal with our differences concerning religion and values in our schools, then public education may not have much of a future.

As soon as I stopped speaking, Ernest Boyer, representing the Carnegie Foundation for the Advancement of Teaching, slapped his hand on the table and said, "I wouldn't put it that way." Everyone looked surprised, well aware of Boyer's strong advocacy of public education. "No," he said emphatically, "if we don't do better in addressing these conflicts, it's not just public schools, but our nation that doesn't have much of a future."

Boyer was right. If we are going to uphold the American arrangement — E Pluribus Unum — then we can't afford deepening religious divisions and culture-

war battles in public education. They rend the fabric of our communities and undermine the educational mission of schools. We urgently need a fresh, bold approach to these conflicts — an approach that enables us to debate our differences with civility, to understand one another, and to forge public policies that serve the common good in public education.

Historic Breakthrough

Now for the good news: Although under-reported by the media and still unknown to many school leaders, a new model has emerged for addressing religion and religious liberty in public schools. Over the past decade, religious and education groups from across the spectrum have adopted a series of consensus guidelines on everything from religious holidays and student clubs to cooperative arrangements between religious communities and public schools. Where they have been applied in local school districts, these agreements have enabled a growing number of divided communities to move from battleground to common ground.

The measure of just how far we have come was highlighted in early 2000 when every public school principal in the United States received a packet of comprehensive religious liberty guidelines from President Clinton and the U.S. Department of Education.[1] For the first time in American history, all schools were given a legal safe harbor for addressing a broad range of perennial conflicts from student religious expression to teaching about religion in the curriculum to establishing partnerships with faith communities.

This new consensus on religion in public schools began to emerge as a response to the textbook trials in Alabama and Tennessee in the mid-1980s. Although the constitutional questions were quite different, both cases called attention to the fact that the public school curriculum largely ignored religious ways of understanding the world. The education issues raised by the trials were re-enforced by several textbook studies. The liberal People for the American Way reached much the same conclusion as the conservative Paul Vitz: Public school texts included little or nothing about religion.[2]

In the wake of these trials and studies, I joined with Oliver Thomas, then general counsel for the Baptist Joint Committee, to convene leading education and religious organizations in an effort to find common ground on the question of religion in the curriculum. Groups ranging from the National Association of Evangelicals to the Association for Supervision and Curriculum Development agreed that ignoring religion was neither educationally sound nor consistent with the First Amendment. We were convinced that we can (and must) do better in public education.

After a year and a half of discussion and debate, we reached our first set of guidelines, "Religion in the Public School Curriculum: Questions and Answers." Four months later we forged a second agreement, "Religious Holidays in the Public Schools: Questions and Answers." This was soon followed by a third statement providing consensus guidelines for implementing the Equal Access Act.[3] After a long history of shouting past one another, we had begun to find common ground.

Beyond the Culture Wars

These agreements of the late 1980s and early 1990s were important first steps in articulating a civic framework that enables schools and communities to move beyond culture-war debates that are often dominated by extremes.

On one end of the spectrum are those who advocate what might be called the "sacred public school," where one religion (theirs) is preferred in school policies and practices. Characteristic of the early history of public education, this approach still survives in some parts of the United States, particularly the rural South. From the "Bible wars" of the 19th century to current fights over posting the Ten Commandments in classrooms, attempts to impose religion in schools have fueled countless lawsuits and bitter fights in communities throughout the nation. Not only is this model unconstitutional, it is also unjust.

In recent decades, however, some on the other end of the spectrum have pushed for a "naked public school," where religion is excluded in the name of a strict "separation of church and state." The influence of this mistaken view of the First Amendment is apparent in the virtual silence about religion in most of the curriculum and the confusion among many school leaders about the religious liberty rights of students. But the First Amendment does not mandate that public schools be religion-free zones. This approach also is unjust and, when the rights of students are violated, unconstitutional.

The process of finding consensus during the past decade has yielded a third model — what might be

called a "civil public school" — articulated in the various guidelines mailed to schools by the Secretary of Education. The shared vision of this model is captured best in "Religious Liberty, Public Education, and the Future of American Democracy," a statement of principles endorsed by 24 major religious and education organizations:

> Public schools may not inculcate nor inhibit religion. They must be places where religion and religious conviction are treated with fairness and respect.
>
> Public schools uphold the First Amendment when they protect the religious liberty rights of students of all faiths or none. Schools demonstrate fairness when they ensure that the curriculum includes study *about* religion, where appropriate, as an important part of a complete education.[4]

These four sentences restate the civic framework of the religious liberty clauses of the First Amendment — our constitutional commitment to "no establishment" and "free exercise" — as they apply to public education. They describe what schools might look like if we finally lived up to the promise of religious liberty. Rather than telling public schools what they may not do, the statement calls for protecting student religious expression and including religious perspectives, while simultaneously rejecting government endorsement or promotion of religion.

This vision of religious liberty in schools is extraordinary not only for what it says, but also for who says it. The Christian Coalition and People for the American

Way are both on the list. The Christian Educators Association International is listed, but so are the National Education Association and the American Federation of Teachers. The National Association of Evangelicals, the Catholic League for Religious and Civil Rights, the Anti-Defamation League, and the Council on Islamic Education join with the American Association of School Administrators, Phi Delta Kappa International, the National PTA, and the National School Boards Association to endorse the statement.

As the statement of principles suggests, it is now possible to reach agreement on the relationship of religion to public schools under the First Amendment. School officials must be neutral among religions (they may not prefer one religion over others) and neutral between religion and nonreligion (they may not show preference to religion generally). But neutrality doesn't mean ignoring religion or hostility toward religion; it means protecting religious liberty rights for every student and taking religion seriously in the curriculum. First Amendment neutrality requires, in a word, fairness. Let's take a closer look at what "neutral" should look like in a public school that is neither sacred nor naked, but civil and fair.

Protecting the Religious Liberty Rights of Students

In 1995, 35 religious and civil liberties groups, ranging from the American Jewish Congress to the Christian Legal Society, issued a "joint statement of current law" outlining what is and isn't permissible concerning religion in public schools. President Clinton used this agreement as the basis for a directive sent by the U.S. Department of Education to superintendents in 1995 and 1998 and to all principals in 2000.[5] The National PTA and the First Amendment Center published a booklet explaining to parents the implications of the directive.

It surprised many school leaders and parents to learn that God had not been "kicked out of the public schools." In fact, the courts have made clear that student religious expression is protected under the First Amendment. For example:

- Students have the right to pray in a public school, alone or in groups, as long as the activity doesn't disrupt the school or infringe on the rights of others.

These activities must be truly voluntary and student-initiated.

- Students have the right to share their faith with others and to read their scriptures. Only if behavior coerces or harasses others, or is disruptive of the educational process, should it be prohibited.
- When it is relevant to the discussion and meets the academic requirements, students have the right to express personal religious views in class or as part of a written assignment or art activity. They may not, of course, make their classmates participate in a religious exercise.
- Most legal experts agree that students have the right to distribute religious literature in public schools subject to reasonable time, place, and manner restrictions. This means school officials may specify when and where the distribution may occur. But the restrictions should be reasonable, and the school must apply them evenly to all nonschool literature.
- Secondary school students may form religious clubs (under the Equal Access Act) if the school allows other extracurricular clubs. Outsiders may not direct or conduct student clubs — or even regularly attend — and faculty sponsors may not participate in the meetings.

In addition to the consensus about current law, there's much agreement about the importance of trying to accommodate the requests of parents and students to opt out from particular classroom discussions or activ-

ities for religious reasons. If focused on a specific discussion, assignment, or activity, such requests should be granted routinely in order to strike a balance between the student's religious freedom and the school's interest in providing a well-rounded education. Moreover, if it is proved that particular lessons substantially burden a student's free exercise of religion and if the school cannot prove a compelling interest in requiring attendance, some courts may require the school to excuse the student.

School officials are also asked to accommodate students with special religious needs or practices. Again, most civil liberties, religious, and education groups agree that administrators and teachers may easily grant most of these requests without raising constitutional questions. Muslim students, for example, may need a quiet place at lunch or during breaks to fulfill their prayer obligation during the school day. Jehovah's Witnesses ask for their children to be excused from birthday celebrations. As long as honoring these requests is feasible, school officials should do so.

Of course, this does not mean that administrators and teachers should be responsible for monitoring a child's compliance with a particular religious obligation. Enforcing religious practices such as prayer, dietary restrictions, or wearing a head covering is the responsibility of parents, not teachers.[6]

Where We Disagree

Although there is agreement on most questions involving student religious expression in public schools,

some areas of the law remain in dispute. The decision by the Supreme Court in *Santa Fe Independent School District* v. *Doe* in July 2000 may have struck down student-led prayer at school football games, but it won't end the debate over student-led prayer at school-sponsored events. We can expect more cases involving student-initiated and student-led prayer at school events as advocates of such prayers attempt to craft conditions that will pass constitutional muster. For example, most legal experts agree that under current law public schools may create a "free speech forum" at school-sponsored events, during which time students are free to express themselves religiously or otherwise. However, such a forum would have to be open to all kinds of speech, including speech critical of religion or the school — a risk few schools may be willing to take.

Another important area of disagreement concerns student religious expression in the classroom, especially in the elementary grades. We have already noted that, according to the U.S. Department of Education guidelines, students may express their beliefs about religion in their assignments free of discrimination based on the religious content of their submissions. But this advice is qualified in the next sentence: "Such home and classroom work should be judged by ordinary academic standards of substance and relevance, and against other legitimate pedagogical concerns identified by the school." Does this mean that teachers may prohibit religious expression by students if they think that such expression may put the school in a position of "endorsing" religion? Is that a "legitimate pedagogical concern"?

The case involving first-grader Zachary Hood is a good illustration of the current debate about student religious expression in classroom assignments. Zachary's teacher told her students that, as a reward for reading proficiency, they could read a story of their own choosing to the class. Zachary selected a story from *The Beginner's Bible* about Jacob and Esau (the passage didn't mention God). Concerned that some children might be offended or may think that the teacher was endorsing religion, the teacher told Zachary that he couldn't read his story to the class. Instead, she asked him to read it to her privately. The child went home hurt and upset. After attempts to work things out failed, the family filed suit.

Cases like this pit two important principles against each other. On one hand, teachers of young children need to control what goes on in their classroom. But on the other hand, students — even very young students — have constitutional rights. Of course, the public school classroom (with its captive audience) is not a public forum where students can say or read aloud whatever they choose. But if the student is meeting the stated requirements of an assignment, the teacher shouldn't censor student speech with religious content without a sound educational reason for doing so. If Zachary's story had been too violent or complex or if Zachary had planned to give a sermon or lead the class in prayer, then the teacher's decision would make sense. But in this instance, a simple disclaimer by the teacher that "this is Zachary's favorite story" would have been sufficient to allay any concerns about "school endorsement" of religion.

Unfortunately, in my view, a lower court judge sided with the school, ruling that the teacher had the authority to prevent Zachary from reading his story to the class. The fact that the story was from the Bible was, in the court's opinion, a sufficient "pedagogical concern." The 3rd Circuit Court of Appeals split 6-6 on the question, leaving the lower court ruling in place. The Hood family plans to appeal to the U.S. Supreme Court.

This is exactly the kind of high-profile lawsuit that convinces many religious parents that public schools are hostile to their faith (even though the vast majority of public school teachers would have allowed Zachary to read his story). Although it is usually wise for courts to defer to the judgment of educators in curricular matters, in this instance the court went too far. It doesn't erode the authority of teachers to insist that they have valid educational reasons for suppressing student religious expression. Permitting teachers to exclude Bible stories simply because they are from the Bible strikes many parents as unfair and unjust. Moreover, it sends a message to children that there is something wrong or embarrassing about having religious convictions.

Small incidents such as this have big implications. If the lower court decision is allowed to stand, it may have a chilling effect on student religious expression in the classroom. Again, most teachers will continue to support the right of students to express their beliefs about religion in their assignments, as long as they are meeting the academic requirements given by the teacher. But some teachers will prohibit such expression, triggering more lawsuits and conflicts.

Although much of the current debate centers on the limits of student religious expression, there are some voices among religious conservatives that continue to push for public schools to formally acknowledge God in some fashion. The desire for a restoration (or preservation) of the sacred public school model remains strong in some areas of the nation. Consider the anger and resentment directed at Lisa Herdahl in Pontotoc County, Mississippi, after she challenged prayers over the school intercom in 1993, or the bitter lawsuit over Bible classes in Ft. Myers, Florida, in 1997, or the attempt in 1999 by a small school district in California to use Christian textbooks in the public schools. The most organized effort to "restore God" to the public schools is, of course, the national movement to post the Ten Commandments in school hallways and classrooms.

But, as the Zachary Hood case suggests, the naked public school also is alive and well in districts where school leaders are confused about the place of religion in the schools — or even outright hostile toward religious expression. A few recent examples: A Texas teacher refused to allow a student to do a paper on Jesus, even though the assignment was to give a report on the hero or heroine of your choice from history. A Michigan superintendent prohibited a student from distributing religious literature to classmates but permitted students to distribute other kinds of literature. A California principal told students in a religious club that they couldn't meet during lunch, despite the fact that other clubs were allowed to meet during that time. (In each of these instances, school officials reversed their decisions when confronted with the consensus guidelines.)

In spite of the progress made in the last decade, the persistence of conflicts and lawsuits are a reminder of just how much work needs to be done before the civil public school becomes a reality in all school districts. Nevertheless, the new consensus about most of the religious liberty rights of students in public schools is an extraordinary achievement — and an unprecedented opportunity for schools to accommodate the religious convictions of parents and students.

Including Religion in the Curriculum

What I have described as a "civil public school" is also a place where religion is taken seriously in the curriculum. On the surface, at least, there is considerable agreement concerning the importance of teaching about religion in the public school curriculum. Guidelines issued by the American Jewish Congress, the American Association of School Administrators, the National Education Association, the American Federation of Teachers, the National Association of Evangelicals, the National School Boards Association, and 13 other religious and education organizations put the issue this way:

> Because religion plays a significant role in history and society, study about religion is essential to understanding both the nation and the world. Omission of facts about religion can give students the false impression that the religious life of humankind is insignificant or unimportant. Failure to understand even the basic symbols, practices, and concepts of the various religions makes much of history, literature, art, and contemporary life unintelligible.

> Study about religion is also important if students are to value religious liberty, the first freedom guaranteed in the Bill of Rights. Moreover, knowledge of the roles of religion in the past and present promotes cross-cultural understanding essential to democracy and world peace.[7]

At the heart of this agreement are three major principles:

- First, the Supreme Court has made it clear that study *about* religion (as distinguished from religious indoctrination) in public schools is constitutional. As Justice Arthur Goldberg explained in his concurring opinion in *Abington* v. *Schempp* (1963), "Government must inevitably take cognizance of the existence of religion and, indeed, under certain circumstances the First Amendment may require that it do so."
- Second, the study of religion is tremendously important if students are to be educated about history and culture.
- Third, public schools must teach about religion objectively or neutrally; their purpose must be to educate students about a variety of religious traditions, not to indoctrinate them for or against any religion.

But how should these principles be applied in public schools? Genuine "neutrality" should mean that the curriculum includes religious as well as secular ways of seeing the world. Excluding religion, or barely mentioning it, hardly seems neutral or fair. For many parents,

the failure to take religion seriously in the curriculum is compelling evidence that public education takes sides against religion.

Although many teachers do try to treat religious perspectives with fairness and respect, they are drawing on a curriculum that continues to largely ignore religion. Except for brief treatments of religion in history and literature, most subjects are taught without any attention to religious ideas or perspectives. The conventional wisdom in public education seems to be that students can learn everything they need to know about almost everything without learning anything (or very little) about religion.

But surely this isn't consistent with the spirit, if not the letter, of the First Amendment. Genuine neutrality under the establishment clause would mean making a good-faith effort to include religious as well as secular perspectives. A curriculum that leaves out religious worldviews implicitly conveys the sense that religion is irrelevant in the search for truth — a message that is neither neutral nor fair.

Of course, there are also significant educational reasons for taking religion seriously in the curriculum. A liberal education should expose students to the major ways in which humanity has attempted to make sense of the world. Some of those ways of understanding are religious. "Mentioning" religion isn't enough; schools must find ways to acknowledge the importance and complexity of religious voices.

Some progress has been made in recent years. There are some outstanding new supplementary materials,

notably *Religion in American Life*, a 17-volume series from Oxford University Press written by leading scholars for young readers, and *On Common Ground: World Religions in America* created by the Pluralism Project at Harvard University.[8]

State standards are gradually beginning to acknowledge religion, most notably the California social studies standards adopted in 1998. And some history textbooks have expanded their treatment of religion beyond the superficial mention of religion typical of earlier editions.

But these modest advances do not yet add up to serious treatment of religion or religious diversity. Most of the current curriculum continues to marginalize religion in our intellectual and cultural life.

Consider economics, a subject that public schools assume has nothing to do with religion. A review of the national economics standards and leading textbooks reveals that religious views of economics are entirely missing from both. But as Warren Nord and I have argued elsewhere, all religious traditions have much to say about such issues as poverty, consumerism, the environment, and work. But nowhere in the standards or texts is there any discussion of social justice, the view of work as a calling, the place of altruism and compassion in human life, or any other conception of economic life of importance to religious traditions. Most economics textbooks include chapters on Marxism and socialism. Why not a chapter on religious accounts of human nature, justice, and economics as well?[9]

Clearly the agreement on the importance of study about religion has produced only modest changes in the

curriculum to date. Serious treatment of religion will require substantial reforms in teacher education so that teachers get adequate preparation in religious studies as it relates to the subject they teach. Textbooks and supplementary materials will need to be written that offer an accurate, academic treatment of religious perspectives. And if electives in religious studies are to be offered in greater numbers, certified teachers must be available to teach them.

Is it realistic to hope that the new consensus will result in fairness for religious worldviews in the curriculum? It's too soon to tell. But rethinking the curriculum — though difficult — can be done. After all, not many years ago textbooks largely ignored the contributions of African Americans and women. That has changed. The same can be done concerning religion in the curriculum. If public schools are to be neutral and fair under the First Amendment — and if they are to move toward the promise of offering a truly liberal education — then ways must be found to take religion seriously.

The Role of Teachers and Administrators

However good the standards and textbooks, a truly civil public school is only possible when teachers and administrators have a clear understanding of their role under the First Amendment. The starting point, of course, is for school officials to keep in mind that, as government employees, they are subject to the establishment clause. This means that they are constitutionally required to be neutral concerning religion while carrying out their duties as teachers.

But again, this doesn't mean that teachers should ignore or avoid religion in the classroom. Teachers have the freedom — indeed, the obligation — to expose students to the marketplace of ideas. In doing so, they may not either inculcate or denigrate religion. When teaching about religion, the teacher, like the curriculum, must not take sides.

But what should teachers do when students ask about their faith? The legal consensus appears to be that teachers are free to answer the question with a brief statement — so long as they do not turn the situation into an opportunity to proselytize for or against religion. Before answering, however, teachers should consider the age of students. It's easier for middle and high school students to distinguish between a personal view and the position of the school; it's harder for young children.

On their own time — before or after the contract day — school employees are just as free as other citizens to be as religious or nonreligious as they choose. Even during the school day, there are some ways in which teachers and other school employees are free to practice their faith. Most legal experts agree that the establishment clause doesn't prohibit teachers from reading a religious book during noninstructional time or wearing non-obtrusive religious jewelry. If a group of teachers wishes to meet for prayer or study of scriptures during the school day, there's no constitutional reason why they shouldn't be permitted to do so — so long as students aren't present and the activity doesn't interfere with the rights of other teachers.

Constitutional problems arise when the teacher decides to use the classroom to either promote or deni-

grate religion. Parents in a North Carolina school called me to complain that their daughter's social studies teacher took every opportunity to make negative and sarcastic remarks about evangelical Christianity. On the other end of the spectrum, a Virginia teacher had to appear before the school board to address complaints that she was using the curriculum, especially in December, to encourage students to accept Christ. In both cases, of course, the behavior of the teacher was both unconstitutional and unprofessional.

Here's the constitutional bottom line for teachers and administrators: People of all faiths or none who choose to work in a public school must remember to put on their "First Amendment hat" when they begin their contract day. That doesn't mean they cease to hold religious convictions (or stop modeling the values of their faith). It does mean that they don't proselytize for or against religion in the presence of students during the school day. Teachers and administrators are supposed to be the fair, honest brokers whose job it is to guard the religious liberty rights of each and every student.[10]

Although teachers and administrators may sometimes be confused about where to draw the line, most understand their obligation to model the First Amendment in public schools. A civil public school is a place where teachers and administrators have a clear understanding of religious liberty principles and are fully prepared to address religious issues in the classroom.

Applying the Principles

A shared vision of religious liberty in public schools means little unless it is translated into policies and practices that work in local schools. Unfortunately, the civil public school model is still a tough sell in many school districts. Either they are currently violating the First Amendment by promoting religion and don't want to take the political risk of calling for change, or they attempt to ignore religion and see no reason to deal with it. Both attitudes are examples of what I call the "let sleeping dogs lie" approach to school administration. All too often it takes a crisis (usually a lawsuit) to move reluctant administrators or school boards to act.

The failure of many school leaders to be proactive concerning religious liberty is hardly surprising. Administrators and board members need only look at colleagues in other places who have been caught in the crossfire of charge and countercharge about such issues as prayer, equal access, the "December dilemma," or textbook selection. They see lawsuits, recall elections, dismissed superintendents, and divided communities.

Why risk stirring up controversy? Because ignoring these issues is a much greater risk. This is true for two

important reasons: First, applying religious liberty principles fully and fairly in public schools is not only the right thing to do, it is, as Ernst Boyer warned, urgently necessary if we are going to live with our deepest differences in the 21st century. As the religious diversity of the United States continues to expand, it will be increasingly important that public schools be places where religious liberty works and where we learn as much as possible about one another.

Second, the survival of public education may be at stake. The exodus from public schools is fueled in large measure by dissatisfaction with how schools address issues concerning religion and values. If school leaders act now, they can reverse the distrust and alienation that many citizens feel toward their schools. The new consensus on religious liberty in schools and religion in the curriculum is an unprecedented opportunity to find common ground and to rebuild trust where it has been lost.

Rights, Responsibility, and Respect

Fortunately, a growing number of public schools are taking advantage of the "safe harbor" created by the consensus guidelines. Many of the most successful districts are part of two statewide "Three Rs Projects" in California and Utah, and similar local initiatives in communities throughout the nation.[11] In each of these efforts, the starting point has been the new consensus on religion in the schools and a shared agreement to abide by the principles of "rights, responsibility, and respect" that flow from the First Amendment:

Rights. Religious liberty is an inalienable right for all. Public education must make every effort to protect the conscience of every parent and student.

Responsibility. As American citizens, we have a civic responsibility to guard that right for every person, including those with whom we deeply disagree. This is what the Williamsburg Charter called the "Golden Rule for civic life" (my rights are best guarded and protected when I take responsibility to guard the rights of others).

Respect. All parties involved in public schools should agree to debate one another with civility and respect and should strive to be accurate and fair. Not only what we debate, but also how we debate is critical in a democracy.[12]

These civic ground rules work best if all of the key stakeholders — teachers, parents, administrators, school board members, community leaders, and students — are represented in the process. In Wicomico County, Maryland, for example, the superintendent and school board responded to growing tensions about religion in the schools by appointing a task force with representatives from across the political and religious spectrum. The group began by committing itself to abide by the principles of rights, responsibility, and respect. And they made certain that the wider community had an opportunity to participate in town hall meetings about the issues raised concerning religion and religious liberty in the schools.

After months of hard work and vigorous discussion, the task force reached consensus on how to treat religion in the curriculum and in the school culture. The

resulting policy has broad support throughout the community. Just as important, however, are the new levels of trust and understanding among people on all sides.

The superintendent in Wicomico didn't stop there. She provided inservice training to teachers and administrators, identified good supplementary materials for teaching religious liberty in the classroom, and distributed a brochure that answered frequently asked questions about the policy.

The "3Rs" framework and the consensus guidelines also helped the school district in Ramona, California, to develop model policies and practices on religion and values. The "common ground task force" appointed some four years ago to develop the policy remains in place as an ongoing forum for addressing issues as they arise. The results of this process enjoy broad support in the community. Students and parents understand their religious liberty rights, teachers have a clear definition of what it means to teach about religion (and support for doing so), and administrators have guidelines for dealing with issues concerning everything from school calendars to parental requests for accommodation.

Being proactive in building common ground lowers the risk of conflicts and lawsuits. Not long ago, Davis County, Utah, developed a comprehensive policy on a wide range of religious liberty issues and has offered inservice programs to implement it. The positive experience in Davis County illustrates that national agreements, as helpful as they might be, are no substitute for local policies. General statements about the law don't spell out how to apply legal principles in a particular

community. Choices must be made. Some issues and questions can be resolved only within each school district. Even more important than the policy, however, is the trust and understanding created by a fair and open process that brings the community together.

Of course, these efforts to find common ground are labor-intensive and time-consuming. But then so are the expensive lawsuits that bitterly divide communities. When a conflict over Christmas in the schools — the perennial December dilemma — tore apart the community of South Orangetown, New York, the superintendent decided that the time had come to finally go beyond a fight that had been a point of tension in the district for decades. He appointed a broadly representative group of parents, teachers, administrators, and community leaders to consider how to address religion in the schools throughout the year, not just in December.

After months of community forums, inservice workshops, and lively discussions, the South Orangetown school board agreed to a policy that moved the community forward. Differences remain, but teachers now focus on teaching about religious holidays (rather than either ignoring or celebrating them), and the community has learned much about how to debate issues with civility and respect.

Some districts have the wisdom to be proactive even without a crisis. The superintendent in Broken Arrow, Oklahoma, has spent years establishing good communication with the religious communities in his district. The program, called "in touch," directly connects administrators with religious communities in ways that

provide regular updates and discussions of school district activities, programs, and concerns. The district also has provided teachers and administrators with inservice training on religious liberty rights of students and the role of religion in the curriculum.

The message in all of these examples from Maryland to California is much the same: School leaders should be proactive and fair in addressing religious liberty in their schools. Without clear policies and adequate inservice education, school districts will continue to lurch from crisis to crisis. Only sound and fair policies and practices, developed and supported with the help of parents and others in the community, will put an end to the confusion and conflict about religious liberty that has plagued public education for most of its history.

Negotiating Differences that Are Deep and Abiding

Given the long history of fights over religious liberty in public schools, it's ironic that issues directly involving religion — prayer, Bible clubs, Christmas, and so forth — are now far easier to negotiate than many other conflicts in public education. Today it's the clash of worldviews over such issues as sex education, school reform, sexual orientation, and textbook selection that are far more intractable.

Consider Modesto, California. The dispute began when the superintendent responded to reports of gay-bashing in the schools by asking the school board to add "sexual orientation" to the safe schools policy and by sending a delegation of teachers and administrators to San Francisco for diversity training. A number of local religious leaders and parents feared that the way that the word "tolerance" was used in the policy would signal endorsement of homosexuality by the school. The resulting debate bitterly divided the community.

After months of speaking past one another, the district brought in an outside facilitator to help find common ground. The committee appointed by the school board — 115 parents, religious leaders, teachers, administrators, and students — took a step back from the issue and focused on civic principles that they could all support.

With very little outside prodding, the committee discovered that they were in agreement on what it would take to make their schools safe for all students. Everyone agreed that no students should be harassed or discriminated against in schools, whatever his or her race, religion, gender, or sexual orientation. More important, they realized that such agreement doesn't require acceptance of the religion, philosophy, or way of life of others. Nor does it mean that the Modesto school system has taken sides on a social issue that deeply divides the community.

At the end of the process, all 115 members of the committee crafted a policy that focused on a plan of action to ensure safe schools for all students. The school board unanimously approved the policy.

The new policy hasn't, of course, ended the debate about sexual orientation in the Modesto schools; but it provides a framework of principles and a foundation of trust that enable the district to move forward. Since the adoption of the policy, the district has recognized the importance of taking religious differences seriously and finding new ways to involve the community in the mission of the school. All administrators and faculty have received inservice training on the "safe schools policy"

and a broad range of religious liberty issues. The curriculum has been expanded to include more study about the major religious traditions. And, in a major test of the new common ground, the district adopted an extracurricular clubs policy that allows students to form a variety of clubs from the Christian club to the Gay-Straight Alliance. By adding a "parental permission" component to the clubs policy, the district won the support of religious parents for allowing equal access.

The Modesto experience is a reminder that America still works. True, there will always be "winners and losers" in public policy disputes involving public schools. But if all sides are treated with fairness and respect in the process, then those who lose on particular issues are likely to continue supporting the schools, especially if they win on other questions. The key is to put in place a shared vision of religious liberty that provides strong civic ground rules for negotiating differences that are deep and abiding.

Finding Common Ground

The process for finding common ground in Modesto illustrates that the religious liberty principles of the First Amendment are not just for lawyers and judges; they belong to every American citizen. Modesto, Ramona, and other communities have demonstrated that when these principles are properly understood and applied, they enable school districts to move from battleground to common ground. The success of these efforts is built on the following seven strategies:

Agree on civic ground rules. Religious consensus is impossible in the United States, and to impose it would be both unjust and unconstitutional. A civic consensus, however, is not only possible, but necessary if we are to continue to build one nation of many peoples and faiths. The best starting point for establishing ground rules is for all sides to affirm the core principles of rights, responsibility, and respect that flow from the First Amendment.

Include representatives from all of the stakeholders. Because public schools belong to all citizens, they must model the democratic process and constitutional principles in addressing questions of religious liberty in public education. Policies concerning religion and values — however sound — may stir further conflict unless a broad cross-section of the community has helped to forge the agreements.

Listen to all sides. Given the opportunity, the vast majority of parents, teachers, administrators, and school board members will commit to a principled dialogue and will work together for fair, open public schools. In order to create a climate where people on all sides begin to listen to one another, school leaders must go beyond labels and stereotypes and identify representatives from all sides who are willing to participate in civil dialogue. School leaders must also acknowledge what is valid about criticism of school policies and practices, particularly concerning religion and religious perspectives. At the same time, parents and community leaders who are critical of the schools need to acknowledge that most administrators and teachers do not intend to be

hostile to religion and seek to be fair in their treatment of parents and students.

Work for comprehensive policies. Many school districts contribute to confusion and distrust by having few, if any, policies concerning religious liberty in the schools. By developing a comprehensive set of polices, schools are able to say "yes" to an appropriate constitutional role for religious expression in public schools, even as they must say "no" to school-sponsored religious practices.

Be proactive. School districts unprepared for controversy fare poorly when a conflict does arise. Where there are no policies (or where policies are not known or supported by the community), there is a much greater likelihood of lawsuits, shouting matches at school board meetings, and polarization in the community. A proactive approach takes seriously the importance of articulating the constitutional role of religion and religious perspectives in public schools. The resulting policies and practices create a climate of trust in the community and demonstrate the public schools' active commitment to the guiding principles of our democracy.

Commit to civil debate. Conflict and debate are a vital part of a democratic system. Yet if Americans are going to negotiate deep differences, then how we debate, not only what we debate, is critical. Personal attacks, name-calling, and similar tactics destroy the fabric of our society and undermine the education mission of schools. All parties should agree to treat one another with civility and respect and should strive to be accurate and fair.

Follow through. The wider community must be informed of policies concerning religious liberty in the schools. If

the process has included broad representation and periodic public meetings, there will be people prepared to communicate the results to the various constituents in the community. Moreover, it is essential that policies be implemented with adequate staff development for teachers and administrators. No matter how sound the policy, it will fail unless educators have a clear understanding of how it works in schools and classrooms.

Reforming Public Education

Where school leaders are committed to finding common ground, it is possible for individual school districts to create and sustain what I have called the "civil public school." But lasting change in the policies and curriculum of all public schools will require major reforms on many levels. Here are nine proposals:

Educate school leaders. Administrators must understand the civic and education ground rules if teachers are to feel safe teaching about religion and clear about how to accommodate the religious liberty requirements of students. Coursework for administrators should include study of religious liberty principles and the relationship of religion and education.

Adopt local policies. Neither teachers nor administrators will feel safe unless school boards adopt religious liberty policies about the appropriate role of religion in the curriculum and the religious liberty rights of students. The development of these policies should be exercises in defining common ground in which representatives of various local constituencies work together to

establish ground rules within the framework of the First Amendment.

Teach the First Amendment. Teacher education institutions must teach all prospective teachers First Amendment principles in their foundations and teaching methods courses. Unfortunately, most teacher educators currently have little understanding of the civic and education frameworks for taking religious liberty and religion seriously.

Prepare teachers. Every teacher education institution should offer an elective course for prospective teachers on religion and education that deals in some depth with the civic, constitutional, and education issues discussed in this fastback.

Offer religious studies. All teachers who deal with religiously contested matters should know something about the relationship of religion to their particular subjects and disciplines. Ideally, they should be required, as part of their certification, to take at least one course relating religion to their subject. Whether required or not, departments of religious studies should make such courses available as electives.

Improve staff development. Universities and school districts should address issues concerning religion and religious liberty in a variety of summer seminars and inservice workshops for teachers and administrators.

Certify religious studies. One way to take religion seriously in the curriculum would be to provide more electives in religious studies. But if there are to be more electives, then there must be teachers competent to teach them. Religious studies must become a certifiable field, requiring at least an undergraduate minor.

Reform the curriculum. State departments of education should set certification requirements and review curricula, setting standards for the inclusion of religion at appropriate places in the curriculum.

Develop new classroom resources. In order to teach about religion, teachers must have good textbooks and resource materials. A good deal of material already exists in some areas of the curriculum (social studies and literature, for example), but there is very little material elsewhere (the sciences, economics, and religious studies itself). To address this need, publishers must be convinced there is a market for such resources. States need to create such markets.[13]

Toward a Common Vision of the Common Good

None of these reforms will be easy to implement. But I see no other way forward if public schools are to move beyond the failed models of the past. Consensus statements and guidelines are essential, but clearly they are not enough. Truly civil public schools — schools that take religious liberty seriously — will require much more than merely acknowledging the constitutional and educational importance of religious liberty in public education. Local districts, schools of education, and state departments of education must work together for substantive and lasting change.

The new consensus on many of the religious liberty issues that have long divided Americans provides educators with an historic opportunity. After more than 150 years of shouting past one another about the place of religion in public schools, we finally have a model for finding common ground. It is now possible to address our differences with civility, reach mutual under-

standing, and forge policies and practices that protect the liberty of conscience for every parent and student.

If educators take this historic opportunity, a common vision of the common good may be realized in public education — and in our nation — as we undertake the task of nation building in 21st century America.

Notes

1. The packet included *Religious Expression in Public Schools*, a U.S. Department of Education summary of current law concerning student religious expression; *A Parent's Guide to Religion in Public Schools*, published by the National PTA and the First Amendment Center; *A Teacher's Guide to Religion in Public Schools*, published by the First Amendment Center; and *Religious Communities and Public Schools: A First Amendment Guide*, published by the American Jewish Congress, the Christian Legal Society, and the First Amendment Center. Free copies of all of these guidelines are available from the First Amendment Center (703-284-2826). They also may be found online at www.freedomforum.org or www.ed.gov.
2. O.L. Davis, et al., *Looking at History: A Review of Major U.S. History Textbooks* (Washington, D.C.: People for the American Way, 1986); Paul Vitz, *Censorship: Evidence of Bias in Our Children's Textbooks* (Ann Arbor, Mich.: Servant Publications, 1986); Charles C. Haynes, *Teaching About Religious Freedom in American Secondary Schools* (Silver Spring, Md.: Americans United Research Foundation, 1985). See also *Religion in the Curriculum*, a report published by the Association for Supervision and Curriculum Development in 1987. For an outstanding philo-

sophical and historical perspective on religious issues in public education, see Warren A. Nord, *Religion and American Education: Rethinking a National Dilemma* (Chapel Hill: University of North Carolina Press, 1995).

3. The full text of these and other consensus guidelines may be found in Charles C. Haynes and Oliver Thomas, *Finding Common Ground: A First Amendment Guide to Religion and Public Education* (Nashville, Tenn.: First Amendment Center, 1998).
4. "Religious Liberty, Public Education, and the Future of American Democracy: A Statement of Principles" is published by the First Amendment Center. Key drafters included Charles Haynes, Ron Brandt of the Association for Supervision and Curriculum Development, Ernest Boyer of the Carnegie Foundation for the Advancement of Teaching, Steve McFarland of the Christian Legal Society, Elliot Mincberg of People for the American Way, and Forest Montgomery of the National Association of Evangelicals.
5. "Presidential Directive on Religious Expression in Public Schools: A Statement of Principles" is available from the U.S. Department of Education (www.ed.gov) or from the First Amendment Center (www.freedomforum.org).
6. A helpful resource for understanding the religious needs and practices of students is *America's Religions: An Educators Guide to Beliefs and Practices* by Benjamin J. Hubbard, John T. Hatfield, and James A. Santucci (Englewood, Colo.: Teacher Ideas Press, 1997).
7. The full statement, "Religion and the Public School Curriculum: Questions and Answers," is reproduced by Haynes and Thomas, *Finding Common Ground*. op. cit.
8. *Religion in American Life*, published by Oxford University Press, includes three chronological volumes on the reli-

gious history of the U.S., nine volumes covering significant religious groups (Protestants, Catholics, Jews, Orthodox Christians, Mormons, Muslims, Hindus, Buddhists, Native Americans, and others), and four volumes addressing specific topics of special importance for understanding the role of religion in American life (women and religion, church-state issues, African-American religion, and immigration). The CD-ROM, *On Common Ground: World Religions in America,* is published by Columbia University Press. This multimedia resource uses text, primary sources, photographs, music, film, and the spoken word to bring alive the extraordinary religious diversity in the United States. Fifteen different religions in various regions of America are represented, from the long-established Christian, Jewish, and Native American traditions to the more recent arrivals, such as Hinduism and Buddhism.

9. Warren A. Nord and Charles C. Haynes explore this problem in depth in *Taking Religion Seriously Across the Curriculum* (Alexandria, Va.: Association for Supervision and Curriculum Development, 1998).
10. These and other questions about the role of teachers are addressed more fully in "A Teacher's Guide to Religion in the Schools," published by the First Amendment Center in 1999.
11. Developed by the First Amendment Center, the 3Rs Project in California is co-sponsored by the County Superintendents Educational Services Association and in Utah by the State Office of Education.
12. The "3Rs" of religious liberty — rights, responsibility, and respect — are articulated in the Williamsburg Charter, an agreement on the meaning and significance of religious liberty signed by nearly 200 American leaders in 1988.

The Williamsburg Charter has greatly influenced the "civil public school" model. *Articles of Faith, Articles of Peace: The Religious Liberty Clauses and the American Public Philosophy,* edited by Os Guinness and James Davison Hunter (Washington, D.C.: Brookings Institution, 1990) contains the full text of the charter and an excellent series of essays that provide a context for understanding the charter's significance.

13. The need for reforming the way public education addresses religion and religious liberty is explored more fully by Warren A. Nord in *Religion and American Education,* op. cit., and by Warren A. Nord and Charles C. Haynes in *Taking Religion Seriously Across the Curriculum,* op. cit. The recommendations listed here are supported by American religious and education leaders from across the religious and political spectrum. For example, in March 2000, 57 men and women from religious communities, academia, media, nonprofit organizations, and faith-based organizations gathered at Arden House, Harriman, New York, for the 96th American Assembly on "Religion in American Life." The assembly included diverse perspectives ranging from Richard Land, President of the Ethics and Religious Liberty Commission of the Southern Baptist Convention, to Steven Green, General Counsel for Americans United for Separation of Church and State. After three days of deliberation, the assembly issued a report that called for the following actions in education:

    - Local school districts should work with parents and community leaders to articulate clear religious liberty policies for students and school personnel that reflect the new consensus under current law.
    - School leaders should provide inservice opportunities for teachers and administrators focused on First

Amendment principles and legal guidelines for implementing religious liberty policies.

- Colleges and universities should reform their curricula to ensure that administrators and teachers are prepared to address issues concerning religious liberty and diversity in public schools and to teach about religion in their respective subjects whenever appropriate.
- Responsible citizens should encourage teaching about the role of religion in American schools, public and private, from elementary through university.

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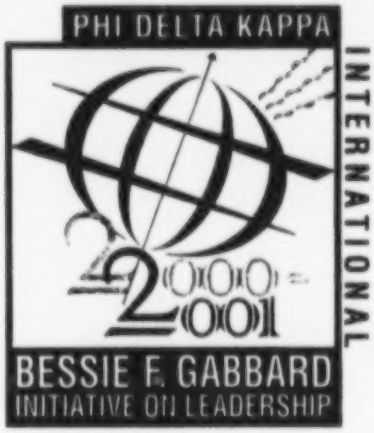

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The Bessie F. Gabbard Initiative on Leadership in Education for the 21st Century, dubbed the 2000-2001 Celebration for short, reaffirms the central importance of the Phi Delta Kappa tenet of leadership. Bessie F. Gabbard (1905-2001), the "First Lady" of PDK and a member and longtime chair of the board of governors of the Phi Delta Kappa Educational Foundation, provided the impetus for this initiative, which will focus the energies of PDK members and staff during the two years of transition to the new millennium. During this 2000-2001 Celebration, special attention will be paid to leaders and leadership in education with a particular focus on PDK's traditional advocacy on behalf of the public schools.

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The girls' basketball team at Sacred Heart Academy in Cleveland, Ohio, strikes a pose in this early photograph, circa 1930.

Courtesy of the Cleveland Public Library Photograph Collection.